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ALTA BATES SUMMIT MEDICAL CENTER,
8 RUSSELL D. STANTEN, M.D., LEIGH I.G.
IVERSON, M.D., STEVEN A. STANTEN, M.D., and
9 WILLIAM M. ISENBERG, M.D., Ph.D.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 COYNESS L. ENNIX, JR., M.D., as an
individual and in his representative capacity
14 under Business & Professions Code Section
17200 et seq.,

15 Plaintiff,

16 v.

17 RUSSELL D. STANTEN, M.D., LEIGH I.G.
18 IVERSON, M.D., STEVEN A. STANTEN,
M.D., WILLIAM M. ISENBERG, M.D.,
19 Ph.D., ALTA BATES SUMMIT MEDICAL
CENTER and does 1 through 100,

20 Defendants.
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CASE NO. C 07-2486 WHA

**DEFENDANTS' INITIAL
DISCLOSURES**

JUDGE: Hon. William H. Alsup

COMPLAINT FILED: May 9, 2007
TRIAL DATE: No date set.

1 In accordance with Civ.R. 26 (a) (1), Defendants provide the following
2 initial disclosures.

3 **A. Individuals Likely To Have Discoverable Information That Defendants**
4 **May Use To Support Their Claims Or Defenses, Unless Solely For**
5 **Impeachment.**

6 1. William M. Isenberg, M.D., Ph.D., a member and officer of the
7 Summit Medical Staff and a named Defendant in the Lawsuit.¹ Summit Medical Staff
8 Office, 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Dr. Isenberg has
9 knowledge of the peer review process challenged by Plaintiff in his Complaint
10 (referenced hereafter as the "peer review process") including, but not limited to, the
11 information set forth in Dr. Isenberg's May 30, 2007 Declaration.² Dr. Isenberg has
12 knowledge of the purposes and procedures of the Summit corrective action Bylaw
13 provisions. Dr. Isenberg has knowledge of the reasons for the peer review process and
14 all steps undertaken in conjunction with the process. Dr. Isenberg has knowledge that
15 such reasons were restricted to the purposes for peer review outlined in the governing
16 Medical Staff documents, and that peer review was not undertaken or completed for the
17 allegedly unlawful reasons asserted in Plaintiff's complaint. Dr. Isenberg has knowledge
18 of the continuing chilling effect of this Lawsuit on the peer review process.

19 2. Steven Stanten, M.D., a member of the Summit Medical Staff, Chair
20 of the Department of Surgery at Summit, a member of the Summit Medical Executive
21 Committee ("MEC"), and a named Defendant in the Lawsuit. Summit Medical Staff
22 Office, 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Dr. Stanten has
23 knowledge of the peer review process including, but not limited to, the information set
24 forth in Dr. Stanten's May 30, 2007 Declaration. Dr. Stanten has knowledge of the

25 ¹ Defendants, including any manager, director or officer of Alta Bates Summit Medical Center
26 ("ABSMC"), should be contacted only through defense counsel. Such is true as well for any
27 member of the Medical Staffs of either campus identified as having participated as a reviewer in
28 any peer review process as those individuals are represented by defense counsel in conjunction
with such participation. This applies only to members of the Medical Staff; those identified as
outside reviewers do not fall within such representation. Additionally, such privilege is not
asserted with respect to Kaiser Permanente employees who are members of the Medical Staff.

² All Declaration dates reference the date of filing.

1 reasons for the peer review process and all steps undertaken in conjunction with that
2 process. Dr. Stanten has knowledge that such reasons were restricted to the purposes
3 for peer review outlined in governing Medical Staff documents, and that peer review was
4 not undertaken or completed for the allegedly unlawful reasons asserted in Plaintiff's
5 Complaint. Dr. Stanten has knowledge of the continuing chilling effect of this Lawsuit on
6 the peer review process.

7 3. Russell Stanten, M.D., a member of the Summit Medical Staff, Chief
8 of the Cardiothoracic Surgery Service, a member of the Cardiothoracic and Surgery Peer
9 Review Committees, and a named Defendant in this action. Summit Medical Staff
10 Office, 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Dr. Stanten has
11 knowledge of the peer review process including, but not limited to, the information set
12 forth in his May 30, 2007 Declaration. Dr. Stanten has knowledge of the reasons for the
13 peer review process and all steps undertaken in conjunction with that process. Dr.
14 Stanten has knowledge that such reasons were restricted to the purposes for the peer
15 review outlined in governing Medical Staff documents, and that peer review was not
16 undertaken or completed for the allegedly unlawful reasons asserted in Plaintiff's
17 Complaint. Dr. Stanten has knowledge of the continuing chilling effect of this Lawsuit on
18 the peer review process. Dr. Stanten also has knowledge concerning his medical group
19 partnership with Plaintiff.

20 4. Leigh Iverson, M.D., a former member of the Summit Medical Staff,
21 now retired, who was a member of the Cardiothoracic Peer Review Committee at times,
22 a member of the Surgery Department Peer Review Committee in 2004 through
23 September 2006, and a member of the MEC in 2004 and 2005. Dr. Iverson is currently
24 residing in Carmel, California. Dr. Iverson has knowledge of the topics addressed in his
25 May 30, 2007 declaration, including, but not limited to, his knowledge in the following
26 areas: his partnership with Plaintiff, his activities as a member of the MEC, his
27 declination to participate in the peer review process, and the absence of any unlawful
28 motivation on his part toward the Plaintiff.

1 5. Lamont D. Paxton, M.D., Chair of the Ad Hoc Committee (AHC)
2 established under the auspices of the MEC starting in 2004 to conduct peer review
3 concerning Plaintiff. Summit Medical Staff Office, 350 Hawthorne Ave., Oakland, CA
4 94609, 510-655-4000. Dr. Paxton has knowledge of the peer review process including,
5 but not limited to, the information set forth in his May 30, 2007 Declaration, and has
6 knowledge, as a reviewer in the process, that such process was undertaken and
7 implemented for purposes of evaluating and improving patient safety and quality patient
8 care. Dr. Paxton has knowledge of the absence of any unlawful motivation relative to
9 the process as alleged by Plaintiff. Dr. Paxton also has knowledge of the peer review
10 process by virtue of his membership on the Surgery Peer Review Committee during
11 relevant time periods.

12 6. Dat Ly, M.D., AHC member. Summit Medical Staff Office, 350
13 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Dr. Ly, in his position as a
14 reviewer in the peer review process, has knowledge of the Medical Staff's peer
15 review/quality of care purposes and functions, of the application of such purposes and
16 functions to the peer review process, and of the absence of any unlawful motivation
17 relative to that process.

18 7. Barry Horn, M.D., AHC member. Summit Medical Staff Office, 350
19 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Dr. Horn, in his position as a
20 reviewer in the peer review process, has knowledge of the Medical Staff's peer
21 review/quality of care purposes and functions, of the application of such purposes and
22 functions to the peer review process, and of the absence of any unlawful motivation
23 relative to that process.

24 8. Fredric Herskowitz, M.D., Medical Staff officer and MEC member.
25 Summit Medical Staff Office, 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000.
26 Dr. Herskowitz, who has participated as a reviewer in the peer review process by virtue
27 of his officer position (and MEC membership) has knowledge of the peer review process,
28 the undertaking and implementation of that process for the purposes of peer review set

1 forth in the Medical Staff's Bylaws, and the absence of any unlawful motivation relative to
2 that process. Dr. Herskowitz also has knowledge regarding Plaintiff's backdating of a
3 patient chart and related issues. Dr. Herskowitz, in his current role as President of the
4 Medical Staff, also has knowledge of the chilling effect that Plaintiff's lawsuit has had on
5 the ongoing peer review of Plaintiff.

6 9. Summit MEC Members 2004-2007.³ Summit Medical Staff Office,
7 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. All members of the MEC have
8 been involved, in varying degrees, in the peer review of Plaintiff, and hence may have
9 knowledge of the peer review process, and the undertaking and implementation of such
10 process for the purposes outlined in the Medical Staff's Bylaws (and for no other
11 purpose). Those members who have not previously been identified are listed below:

- 12 a. John F. Donovan, M.D.⁴
- 13 b. Louis Komarmy, M.D.
- 14 c. Bruce Moorstein, M.D. (Officer 2/2004 to 2/2006)⁵
- 15 d. Todd Murray, M.D.
- 16 e. Rod Perry, M.D.
- 17 f. Philip Rich, M.D. (Officer 2/2006 through the present)
- 18 g. James Saunders, M.D.
- 19 h. Annette Shaieb, M.D. (Officer 2/2004-2/2006)
- 20 i. Susan Sykes, M.D.
- 21 j. Michael Usem, M.D.
- 22 k. John Warbritton, M.D.

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24 ³ The MEC composition changes over time. This list includes anyone who has served as a
25 Committee member at any time during the above-referenced time frame. Persons who have
26 served as Officers at any time in the period are so identified.

27 ⁴ Dr. Donovan also has knowledge of information he provided to the peer review process,
28 including during his October 2004 interview with the AHC, concerning his observations of
Plaintiff's performance during and related to surgeries.

⁵ Dr. Moorstein has also been a member of the Surgery Department Peer Review Committee at
relevant times, and also may have knowledge of Plaintiff's peer review history given Dr.
Moorstein's past chairing of the Surgery Peer Review Committee.

- 1 I. Lisa Yee, M.D.
- 2 m. Goldee Gross, M.D.
- 3 n. Less Chafen, M.D.
- 4 o. Maire Daugharty, M.D.⁶
- 5 p. Bernard Drury, M.D.
- 6 q. Michael Kim, M.D. (Officer 2/2006 through the present)
- 7 r. Eugene McMillan, M.D.
- 8 s. Linda Gordon, M.D.

9 10. Members of the Surgery Peer Review Committee 2004-2007.

10 Summit Medical Staff Office, 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000.

11 To the extent not previously identified, the following participated in peer review as
12 members of the Surgery Peer Review Committee during the above time period and
13 hence may have knowledge of the peer review process, and of the reasons (to fulfill
14 Bylaw responsibilities concerning patient care) for which it was undertaken.

- 15 a. Douglas Patton, M.D.
- 16 b. Lisa Bailey, M.D.
- 17 c. Tsuan Li, M.D.
- 18 d. Stephen Etheredge, M.D.
- 19 e. Robert Kindrachuk, M.D.
- 20 f. Steven Pascal, M.D.
- 21 g. Donato Stinghen, M.D.
- 22 h. William Lewis, M.D.
- 23 i. Ronald Webb, M.D.
- 24 j. Robert Yan, M.D.

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27 ⁶ Dr. Daugharty also has knowledge of information she provided to the peer review process,
28 including during her 2004 interview with the AHC, concerning her observations of Plaintiff's
performance during and related to surgeries.

1 11. Members of the Cardiothoracic Peer Review Committee 2004-2007.
2 Summit Medical Staff Office, 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000.
3 To the extent not previously identified, the following participated in peer review as
4 members of the Cardiothoracic Peer Review Committee during the above time period
5 and hence may have knowledge of the peer review process, and of the reasons (to fulfill
6 Bylaw responsibilities concerning patient care) for which it was undertaken.

- 7 a. Dennis Durzinsky, M.D. (Kaiser employee).
8 b. Hon Lee, M.D. (Kaiser employee).⁷
9 c. Brian Cain, M.D. (Kaiser employee).
10 d. David Alyono, M.D. (Kaiser employee).
11 e. Gary Woodworth, M.D.

12 12. Forest Junod, M.D., 5412 Tree Side Dr., Carmichael, CA. 95806,
13 916-971-1444. Dr. Junod has knowledge as an outside reviewer of patient care issues
14 arising in several surgeries Plaintiff performed at the Alta Bates campus in 2002, as set
15 forth more fully in his report dated November 14, 2003 which was provided by the Alta
16 Bates Medical Staff to the Summit Medical Staff on December 18, 2003.

17 13. Neil Smithline, M.D., Director of Clinical Quality, National Medical
18 Audit ("NMA"), 3 Embarcadero Center, San Francisco, CA 94111, 415-393-5650. Dr.
19 Smithline, in his role as coordinator for the outside peer review conducted by NMA in the
20 first part of 2005, has knowledge of the qualifications of the reviewers selected by NMA,
21 the process followed by NMA in conducting the review, and the conclusions reached in
22 the review concerning deficiencies in Plaintiff's performance of his medical
23 responsibilities.

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25 ⁷ Dr. Lee also has knowledge of information he provided during the peer review process,
26 including relative to his early 2004 review of four minimally invasive valve procedures performed
27 by Plaintiff and during his September 2004 interview with the AHC. Drs. Durzinsky, Lee and
28 Thomas Gonda, Jr. (all Kaiser employees who can be reached through the Summit Medical Staff
 Office) also have knowledge of Plaintiff's proctoring from late October 2005 through mid-2006,
 including discussions those individuals had with Dr. Isenberg in late 2005 regarding concerns
 with Dr. Ennix's surgical performance.

1 14. Leland Housman, M.D., 4033 3rd Ave., Suite 210, San Diego, CA
2 92103, 619-297-5600. Dr. Housman was one of the outside reviewers obtained by NMA
3 to conduct a peer review of certain of Plaintiff's surgeries and related care. Dr. Housman
4 has knowledge of his own qualifications to conduct such a review, of the manner in
5 which the review was conducted (including his speaking with Plaintiff and considering
6 information provided by Plaintiff), and of the conclusions he reached concerning
7 deficiencies in Plaintiff's performance of his medical responsibilities.

8 15. Robert H. Breyer, M.D., 2800 North Sheridan Rd., Suite 209,
9 Chicago, Illinois 60657, 773-477-4343. Dr. Breyer was one of the outside reviewers
10 obtained by NMA to conduct a peer review of certain of Plaintiff's surgeries and related
11 care. Dr. Breyer has knowledge of his own qualifications to conduct such a review, of
12 the manner in which the review was conducted (including his speaking with Plaintiff and
13 considering information provided by Plaintiff), and of the conclusions he reached
14 concerning deficiencies in Plaintiff's performance of his medical responsibilities.

15 16. Junaid Kahn, M.D., Summit Medical Staff Office, 350 Hawthorne
16 Ave., Oakland, CA 94609, 510-655-4000. Dr. Kahn has knowledge in the following
17 areas: the past partnership among Drs. Kahn, Iverson, R. Stanten and Plaintiff; Dr.
18 Kahn's interview with the AHC in October 2004; Dr. Iverson's lack of participation in the
19 peer review process; and, to Dr. Kahn's observation, the reasons for undertaking the
20 peer review process (as unrelated to any allegedly unlawful motivation).

21 17. James Lovin, employed by ABSMC as a surgical technician. 350
22 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Mr. Lovin has knowledge of
23 information he has provided to the peer review process, including during his interview by
24 the AHC in October 2004.

25 18. Brian Hite, M.D., Summit Medical Staff Office, 350 Hawthorne Ave.,
26 Oakland, CA 94609, 510-655-4000. Dr. Hite has knowledge of information he has
27 provided to the peer review process, including during his October 2004 interview by the
28 MEC.

1 19. Joan Shields, an R.N. employed by ABSMC. 350 Hawthorne Ave.,
2 Oakland, CA 94609, 510-655-4000. Ms. Shields has knowledge concerning information
3 she provided to the peer review process regarding the level of Plaintiff's interaction with
4 a patient on May 5, 2005.

5 20. John Gentile, M.D., Vice President, Medical Affairs. ABSMC, 2450
6 Ashby Ave., Berkeley, CA 94705. Dr. Gentile has knowledge of the contractual
7 relationship between the Medical Center and the medical group of which Plaintiff was a
8 partner; of the lack of contract between the Medical Center and the Plaintiff, of the
9 nature of the Medical Center's contracting with physicians in general, and of the peer
10 review process involving Plaintiff.

11 21. Warren Kirk, Chief Executive Officer ABSMC. 2450 Ashby Ave.,
12 Berkeley, CA 94705. Mr. Kirk has knowledge in the following areas: the Medical
13 Center's practices in contracting with physician medical groups; the peer review process;
14 the reporting of such peer review process to the ABSMC's Board of Trustees; and
15 Plaintiff's efforts to exert outside pressures to influence the peer review process.

16 22. Philip L. Zemansky, M.D., retired member of the Alta Bates Medical
17 Staff (who can be reached through the Alta Bates Medical Staff Office, 2450 Ashby Ave.,
18 Berkeley, CA 94705, 510-204-1417). Dr. Zemansky has knowledge of the poor
19 outcomes of surgeries performed by Plaintiff at the Alta Bates campus, and relative to
20 the reasons for the closure of the Alta Bates cardiac program in early 2003.

21 23. Stephen Cooper, M.D., member Alta Bates Medical Staff. Alta
22 Bates Medical Staff Office, 2450 Ashby Ave., Berkeley, CA 94705, 510-204, 1417. Dr.
23 Cooper has knowledge of the poor outcomes of surgeries performed by Plaintiff at the
24 Alta Bates campus, and relative to the reasons for the closure of the Alta Bates cardiac
25 program in early 2003.

26 24. Ronald A. Dritz, M.D., member Alta Bates Medical Staff. Alta Bates
27 Medical Staff Office, 2450 Ashby Ave., Berkeley, CA 94705, 510-204-1417. Dr. Dritz
28 has knowledge of the poor outcomes of surgeries performed by Plaintiff at the Alta Bates

1 campus, and relative to the reasons for the closure of the Alta Bates cardiac program in
2 early 2003.

3 25. John Rosenberg, M.D., member Alta Bates Medical Staff. Alta
4 Bates Medical Staff Office, 2450 Ashby Ave., Berkeley, CA 94705, 510-204-1417. Dr.
5 Rosenberg has knowledge, in his capacity as a Medical Staff Officer responsible for
6 conducting peer review, of the peer review process commenced by the Alta Bates
7 Medical Staff in about 2002 concerning poor outcomes in Plaintiff's surgeries, of the
8 reasons why the process was not completed, and regarding sending the Junod report to
9 the Summit Medical Staff. Dr. Rosenberg also has knowledge of the provisions of the
10 Alta Bates Medical Staff Bylaws.

11 26. Gretchen Kunitz, M.D., former member (and officer) of the Alta
12 Bates Medical Staff, who can be reached through the Alta Bates Medical Staff Office,
13 2450 Ashby Ave., Berkeley, CA 94705, 510-204-1417. Dr. Kunitz has knowledge, as a
14 peer reviewer, of the applicable provisions of the Alta Bates Medical Staff Bylaws, of
15 concerns on the part of the Alta Bates Medical Staff concerning Plaintiff's surgical
16 outcome and other indicators of potential performance issues, and of the referral of
17 certain of Plaintiff's Alta Bates surgeries for outside peer review.

18 27. Robert J. Swanson, M.D., Member Medical Staff, Alta Bates
19 campus, 2450 Ashby Ave., Berkeley, CA 94705, 510-204-1417. Dr. Swanson has
20 knowledge, as a peer reviewer, of the applicable provisions of the Alta Bates Medical
21 Staff Bylaws and of his participation on the Cardiac Surgery Peer Review Panel in
22 approximately 2003-2004.

23 28. Joanne Jellin, PsyD., Director of Medical Staff Services, Summit
24 Medical Staff Office, 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Ms.
25 Jellin has knowledge of all aspects of the peer review process as required by the
26 Medical Staff Bylaws and as implemented. Ms. Jellin also has knowledge of the
27 precautions taken by the Medical Staff Office and others involved in the peer review
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1 process to keep the peer review information confidential under applicable laws and
2 Bylaw requirements.

3 29. Renee Russell, Manager, Alta Bates Medical Staff Services, Alta
4 Bates Medical Staff Office, 2450 Ashby Ave., Berkeley, CA 94705, 510-204-1417. Ms.
5 Russell has knowledge of all aspects of the peer review process as required by the
6 Medical Staff Bylaws and as implemented. Ms. Russell also has knowledge of the
7 precautions taken by the Medical Staff Office and others involved in the peer review
8 process to keep peer review information confidential under applicable laws and Bylaw
9 requirements.

10 30. Debbie Mogg, an R.N. employed by ABSMC as a Quality
11 Improvement Coordinator. 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000.
12 Ms. Mogg has knowledge of the peer review process, including steps taken to preserve
13 the confidentiality of the process.

14 31. Marilyn Barkin, an R.N. employed by ABSMC as a Quality Data
15 Coordinator. 350 Hawthorne Ave., Oakland, CA 94609, 510-655-4000. Ms. Barkin has
16 knowledge of the peer review process, including steps taken to preserve the
17 confidentiality of the process.

18 32. Cathy Falstad, Office Manager, East Bay Cardiac Surgery Center,
19 3300 Webster St., Suite 500, Oakland, CA 94609. Ms. Falstad has knowledge of the
20 East Bay Cardiac Surgery Center medical group, and of information related to her entry
21 of the STS-adjusted data for certain cardiac surgeons, including Plaintiff.

22 33. Defendants reserve the right to call as witnesses the experts and
23 other individuals who wrote reports and/or supporting statements for Plaintiff, as
24 identified, for example, in Exhibits B through D and G through J of Plaintiff's July 12,
25 2007 Declaration. The identity and whereabouts of those individuals are known to
26 Plaintiff and his counsel. Plaintiff's patients and relatives of those patients also may
27 have knowledge of Plaintiff's provision of medical care; they are not here identified to
28 preserve their privacy.

1 B. Identification Of Documents Supportive Of Defendants' Claims Or
2 Defenses, Except For Impeachment.

- 3 1. Summit Medical Staff Bylaws from February 2003 to present.
- 4 2. Summit Medical Staff Rules and Regulations from February 2004 to
5 present.
- 6 3. Contracts between ABSMC (or Summit Medical Center) and the
7 East Bay Cardiac Surgery Center from September 1, 2001 through November 2005.
- 8 4. Memorandum of Understanding between the Medical Staffs of Alta
9 Bates and Summit governing the sharing of peer review information.⁸
- 10 5. Documents of Confidential meetings of the Alta Bates Medical Staff
11 concerning problems with the cardiac surgery program at Alta Bates in about 2002 and
12 early 2003, including minutes of the Anesthesia Subcommittee in 2002/early 2003 on
13 such topic and minutes of the meeting of the Cardiac Surgery Peer Review Panel dated
14 March 2, 2004.
- 15 6. Outside review of Plaintiff by Forest Junod, M.D. dated November
16 14, 2003 and correspondence (between the Summit and Alta Bates Medical Staffs, and
17 between each such staff and Plaintiff) regarding the review.
- 18 7. Information considered by Summit Medical Staff leaders in
19 commencing a peer review process concerning Plaintiff in 2004, including
20 documentation regarding minimally invasive valve procedures done by Plaintiff in early
21 2004 and comparative mortality and other surgical indicators.
- 22 8. Documentation of discussions with Plaintiff concerning the minimally
23 invasive valve procedures including relative to Plaintiff's decision not to perform such
24 procedures.

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27 ⁸ As indicated by the fact that Defendants have marked these Disclosures as subject to the
28 Parties' Stipulated Protective Order, all peer review information referenced in these Disclosures
 is maintained by the Medical Staffs in strict confidence pursuant to the provisions of California
 Evidence Code § 1157.

1 9. Minutes of the April 12, 2004 Surgery Peer Review Committee and
2 related documents.

3 10. Documents referencing the appointment, under the auspices of the
4 MEC, of an ad hoc committee for peer review of Plaintiff, including the April 21, 2004
5 letter from William Isenberg, M.D. Ph.D., to Plaintiff outlining the task of the AHC.

6 11. Documents reflecting the work of the AHC including notes of
7 interviews conducted by the AHC in September through October 2004 and in March
8 through June 2005.

9 12. Documentation of the decision to retain the services of National
10 Medical Audit to conduct an outside peer review of certain patient cases, including the
11 January 4, 2005 retention letter addressed to Dr. Smithline from Drs. Paxton and
12 Isenberg, the contract with NMA for the provision of services and invoices showing the
13 work performed by NMA.

14 13. Documentation of the NMA reviewers' credentials and of the
15 reviewers' contacts with Plaintiff, including Dr. Isenberg's March 9, 2005 letter to Plaintiff.

16 14. Documents showing the information considered by the NMA,
17 including that submitted by Plaintiff.

18 15. The May 3, 2005 report from NMA entitled "Focused Review of
19 Medical Records of Coyness L. Ennix, Jr. MD".

20 16. Documentation from May 2005 regarding Plaintiff's backdating of a
21 patient chart entry, and his, at a minimum, failure to adequately examine the patient in
22 the post-operative period, including documentation of the Medical Staff leadership
23 review of this issue.

24 17. Documents relating to the summary suspension of Plaintiff's clinical
25 privileges occurring on May 10, 2005, including relating to Plaintiff's meeting with the
26 MEC on May 18, 2005.

27 18. Documents relating to Plaintiff's request that he be allowed to
28 engage in surgical assisting in lieu of a continued suspension of his privileges.

1 19. Filings with the Medical Board of California and the National
2 Practitioner Data Bank concerning Plaintiff during the period of 2004 through 2006.

3 20. Documents relating to Plaintiff's agreement to accept restrictions on
4 his privileges and relating to his failure to request any hearing as provided for by the
5 Medical Staff's Bylaws concerning any action he now contests in this Lawsuit, including,
6 communications with Plaintiff and with his counsel, John Etchevers, concerning such
7 issues.

8 21. Documentation of presentations Plaintiff made to the AHC in 2005.

9 22. Documentation of the deliberations of the AHC following its receipt
10 of the NMA report between May 3, 2005 and August 1, 2005.

11 23. The August 1, 2005 Memorandum from the AHC to the MEC re
12 "Coyness L. Ennix, Jr., M.D.; Investigative Report and Recommendations".

13 24. Documents relating to the MEC's consideration of the report of the
14 AHC, including documents relating to Plaintiff's request to postpone the meeting of
15 August 15, 2005 and his meeting with the MEC on September 7, 2005.

16 25. Documents relating to the MEC's actions following the peer review
17 investigation, including the letters from William Isenberg, M.D. Ph.D. to Plaintiff dated
18 October 11 and 25, 2005.

19 26. Documents relating to Plaintiff's review, discussion and acceptance
20 of proctoring terms in October 2005.

21 27. Documents relating to Plaintiff's resignation from his medical
22 practice group (the East Bay Cardiac Surgery Center) in October 2005.

23 28. Documents relating to the proctoring of Plaintiff during the period
24 between October 2005 and July 2006.

25 29. Documents relating to the decision to place Plaintiff on summary
26 suspension effective December 30, 2005, including a letter dated December 30, 2005
27 from William Isenberg, M.D. Ph.D. to Plaintiff.

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1 30. Documents relating to the review of medical records conducted by
2 Drs. Paxton and Steven Stanten from December 30, 2005 through January 2, 2006,
3 including the letter of Steven Stanten M.D. to William Isenberg M.D., Ph.D. dated
4 January 3, 2006 and the letter from William Isenberg, M.D., Ph.D. to Plaintiff dated
5 January 5, 2006.

6 31. Documents relating to the AHC's and MEC's monitoring of Plaintiff's
7 proctoring period, including the March 14, 2006 letter from Fredric Herskowitz, M.D. to
8 Plaintiff, the May 4, 2006 report of the AHC following review of the proctoring reports,
9 May 9, 2006 minutes of the MEC, a May 10, 2006 letter from Fredric Herskowitz, M.D. to
10 Plaintiff "Re: Proctoring", notes of a meeting attended by Plaintiff, Dr. Herskowitz and
11 Joanne Jellin dated May 24, 2006 and a July 11, 2006 letter from Fredric Herskowitz,
12 M.D. to Plaintiff "Re: Discontinuation of Proctoring Requirements".

13 32. Documents relating to the ongoing peer review of Plaintiff by the
14 Summit Medical Staff from July 11, 2006 to present.

15 33. Documents relating to Plaintiff's chronic failure to adhere to Medical
16 Staff documentation requirements, including those requirements relating to
17 documentation of patient care and of obtaining informed consents, including documents
18 relating to the suspension of his privileges in or about May 2005 for such failures, and
19 prior notices from the Medical Staff discussing documentation deficiencies.

20 34. To the extent necessary, and only in a form which redacts all
21 identifying information, patient records relating to the peer review processes above
22 described.

23 35. Documents relating to Plaintiff's peer review, credentialing,
24 appointment and re-appointment histories with both the Summit and the Alta Bates
25 Medical Staffs.

26 36. Documents relating to Plaintiff's violation of Medical Staff Bylaw
27 requirements concerning the confidentiality of the peer review process.
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NOTE: Except for Item Nos. 3, 27 and 34, the above documents are in the possession of (including being subject to the custody of) the respective Medical Staff Offices of the Summit and Alta Bates Medical Staffs. Item 3 is subject to the custody of the Vice President, Medical Affairs, ABSMC. Item 27 is subject to the custody of the East Bay Cardiac Surgery Center. Item 34 is subject to the custody of the Medical Records Department of ABSMC.

NOTE: To the extent that documents falling within the above descriptions are covered by the attorney-client privilege and/or work product doctrine, they will be withheld from the exchange subject to identification on a privilege log.

C. Damage Computation.

Defendants do not at present seek any damages from Plaintiff, except for its fees and costs (including expert costs) of defense. Defendants seek attorneys' fees under, inter alia, C.C.P. Section 425.16, 42 U.S.C. § 11113 and 42 U.S.C. § 1988.

D. Insurance Policies.

Defendants provide the following information concerning insurance coverage without prejudice to their position that Plaintiff has not stated any claim for relief. Defendant ABSMC maintains Executive Liability, Entity Liability and Employment Practices (Health Care Portfolio) Liability Coverage, underwritten by Federal Insurance Company, Capital Center, 251 N. Illinois, Suite 1100, Indianapolis, Indiana 46204-1927.

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1 E. Certification.

2 I certify that, to the best of my knowledge, information and belief, formed
3 after an inquiry which is reasonable under the circumstances, the above disclosures are
4 complete and correct as of this time.

5 DATED: August 9, 2007

KAUFF McClain & McGuire LLP

6
7 By: 

MAUREEN E. McCLAIN

8
9 Attorneys for Defendants
10 ALTA BATES SUMMIT MEDICAL
11 CENTER, RUSSELL D. STANTEN, M.D.,
12 LEIGH I.G. IVERSON, M.D., STEVEN A.
13 STANTEN, M.D., and WILLIAM M.
14 ISENBERG, M.D., Ph.D.

12 120341.v1

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is One Post Street, Suite 2600, San Francisco, California 94104. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On **August 9, 2007** I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within documents:

DEFENDANTS' INITIAL DISCLOSURES

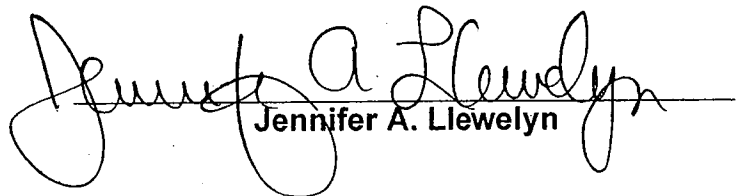
in a sealed envelope, postage fully paid, addressed as follows:

G. Scott Emblidge, Esq.
Rachel Josephine Sater, Esq.
Moscone, Emblidge & Quadra, LLP
220 Montgomery Street, Suite 2100
San Francisco, CA 94104

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **August 9, 2007** at San Francisco, California.


Jennifer A. Llewelyn